

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
v.) No. 19 CR 277
)
CONCEPCION MALINEK,) Judge Edmond E. Chang
)
)
Defendant.)

JOINT MOTION TO CONTINUE TRIAL

NOW COMES the defendant, **CONCEPCION MALINEK**, by and through her attorney, **ROBERT L. RASCIA**, and moves this Honorable Court to continue the trial date scheduled for June 22, 2020 in this cause, until a date after August 3, 2020.

In support thereof the defendant states the following:

1. The jury trial in this matter is currently scheduled for June 22, 2020.
2. The defendant, Concepcion Malinek, is currently in custody at the Livingston County Jail in Pontiac, Illinois.
3. The defendant was transferred to the Livingston County Jail from the Metropolitan Correctional Center in Downtown Chicago on or about March 9, 2020
4. While the defendant was in custody at the MCC, counsel had in-person meetings with Ms. Malinek with regularity. Since her transfer, due to health safety concerns, defense counsel has been unable to have any face-to-face meetings with Ms. Malinek at the Livingston County Facility.
5. Since this transfer, the contact between Ms. Malinek and her defense counsel has been limited to brief telephone conferences, which are accommodated based upon the

availability of the correctional staff at the Livingston County facility, and must be requested 48 hours in advance.

6. These telephone calls are of limited duration, and they are impacted by the number of other attorney-client teleconferences that have been requested by other attorneys in other cases on any given day.

7. Despite these restrictions, defense counsel has maintained regular communication with Ms. Malinek, usually 3 times per week, via the telephone.

8. Due to health safety concerns, defense counsel has discontinued in-person meetings with the nine civilian witnesses who the defendant desires to present as witnesses at the trial in her case in chief. Eight of these witnesses require the assistance of a Spanish language interpreter.

9. Counsel has attempted to continue the process of communicating with these witnesses in order to prepare them for their trial testimony remotely, via telephone. However, this process has not been effective. The civilian witnesses do not have access to electronic equipment with video-capability to aid in this process.

10. Based upon current news reports relating to Covid19, and the current stay-at-home order in place, counsel is concerned that there may be insufficient time available to complete necessary trial preparations if the trial remains scheduled for June 22.

11. The defendant has also pursued plea negotiations aggressively. However, these negotiations have been stalled due to the inability to have in person contact in a safe, healthy environment with the defendant.

12. The undersigned counsel has discussed this request with the defendant, most recently in a telephone conference with her on April 23, 2020. Ms. Malinek agrees with this request.

13. The undersigned counsel has also discussed this request with AUSA Parente, he advised that he joins in this request, expressing similar concerns about the ability to conduct in-person meetings in preparation for trial.

14. Counsels also jointly request an extension of the pretrial filing deadline in this matter of 30 days, should the court postpone the trial to a date after August 3, 2020.

WHEREFORE the defendant, Concepcion Malinek, respectfully requests a postponement of the trial date in this cause until a date after August 3, 2020, and a 30 day extension of the deadline for filing pretrial motions.

s/Robert L. Rascia/April 23, 2020

ROBERT L. RASCIA, ARDC No. 6184470

Attorney for the Defendant

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CERTIFICATE OF SERVICE

I, ROBERT RASCIA, deposes and states that, on this 23rd day of April, 2020, I have served notice of the foregoing to Assistant United States Attorney Christopher Parente, via ELECTRONIC FILING.

s/Robert L. Rascia/April 23, 2020

ROBERT L. RASCIA, ARDC No. 6184470

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